

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Pursuant to the authority of Iowa Code section 159.5, the Department of Agriculture and Land Stewardship amends Chapter 1, “Administration,” and adopts new Chapter 13, “Renewable Fuel Infrastructure Board—Organization,” Chapter 14, “Renewable Fuel Infrastructure Program For Retail Motor Fuel Sites,” Chapter 15, “Renewable Fuel Infrastructure Program For Biodiesel Terminal Grants,” and Chapter 16, “Renewable Fuel Infrastructure Program Administration,” Iowa Administrative Code.

The amendments carry out the transfer of the rules for the Renewable Fuel Infrastructure Board from the Iowa Department of Economic Development to the Department of Agriculture and Land Stewardship authorized by 2011 Iowa Acts, Senate File 531, division VII. The Department of Agriculture and Land Stewardship now provides for the administration of the related programs for retail motor fuel sites, biodiesel terminal grants, and the renewable fuel infrastructure fund.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 9583B** on June 29, 2011. The identical amendments were also Adopted and Filed Emergency as **ARC 9584B** on the same date. No comments were received from the public.

The Renewable Fuel Infrastructure Board met on October 4, 2011, and several editorial, nonsubstantive changes were made to the amendments published under Notice and Adopted and Filed Emergency. The word “yet” was added to the catchwords in 16.2(2), and the subrule now reads as follows:

“16.2(2) Prospective grants for projects not yet commenced. A grant may be awarded for an eligible project not yet commenced.”

In subrule 16.2(6), the term “infrastructure board” was changed to “board.” The subrule now reads as follows:

“16.2(6) Multiple awards for multiple fuel types.

“a. At a single fuel site. A person must file a separate application form for an ethanol infrastructure improvement grant and a biodiesel infrastructure improvement grant, respectively, at a single fuel site. The board may approve multiple improvements to the same retail motor fuel site for the full amount available for ethanol infrastructure and biodiesel infrastructure. Applications for ethanol and biodiesel infrastructure improvements must be written in separate cost-share agreements.

“b. At multiple fuel sites. A person may receive multiple grants as described in paragraph 16.2(6) ‘a’ for more than one motor fuel site. When considering multiple grants for multiple fuel sites, the board will make awards fairly and properly among applicants and geographic areas.”

In the introductory paragraph of subrule 16.5(2), “will” was changed to “shall,” and in paragraph 16.5(2)“b,” “included in” was changed to “that contains.” The paragraphs now read as follows:

“16.5(2) Contract required. The board shall direct the department to prepare a cost-share agreement which shall include terms and conditions of the grant established by the board. The agreement shall:”

“b. State the total cost of the project expressed in a project budget that contains sufficient detail to meet the requirements of the infrastructure board.”

“Will” was also changed to “shall” in the introductory paragraph of 16.5(5)“a”(2). The paragraph now reads as follows:

“(2) Waiver due to demonstration of financial hardship (repayment on a sliding scale and no 25 percent penalty). A grant recipient may seek a permanent waiver of exclusive use of the approved renewable fuel during the time period in which a cost-share agreement is in effect due to financial hardship. The grant recipient must demonstrate that continuing to dispense the renewable fuel at a project site will cause a financial hardship. A request for waiver due to financial hardship shall include documentation to show a ‘good faith’ effort to market the fuel, specifically the most recent six-month history of gallons of approved renewable fuel sold by month, marketing/advertising efforts, retail price comparison of E-85 to E-10 (or regular gasoline) or of biodiesel to regular diesel. If a waiver is granted, the 25 percent penalty will not be assessed, but the grant funds shall be repaid as follows:”

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 15G and 159 and 2011 Iowa Acts, Senate File 531.

These amendments will become effective on December 7, 2011, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amend 1.2(4)“a”; adopt Chs 13 to 16] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 9583B** and Adopted and Filed Emergency as **ARC 9584B**, IAB 6/29/11.

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